IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.278 OF 2005

The United India Insurance Co.Ltd. ... Petitioners

v/s

Bhilosa Tex-N-Twist Pvt.Ltd. ... Respondents

Mr M.P.S. Rao with Mr J.K. Mitra and Mr A.S. Vidyarthi i/b Mr S.M. Vidyarthi for Petitioners.

Mr H.H. Trivedi for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 29TH AUGUST 2005.

P.C. :-

1. This is a petition filed under section 34 of the Arbitration and Conciliation Act 1996. The award is challenged on the ground that the learned Arbitrators have committed an error in holding that the payment of Rs.69,87,475/- was not accepted by the respondents as full and final settlement. The petitioners rely on a voucher signed by the respondents. Perusal of paragraph 23 of the award shows that the learned Arbitrators have stated that they have relied on a letter which was sent alongwith the voucher. The learned Arbitrators have held that in that letter, the petitioners had stated that the cheque was sent with that letter and the voucher was towards interim payment. Thus, one of the circumstances relied on by the learned Arbitrators is he letter of the petitioners describing the payment as interim payment. Perusal of the petition, however, shows that this aspect has not even been referred to or dealt with in the petition. I do not find any averment indicating as to what error was committed by the learned Arbitrators in relying on the letter of the petitioners. Thus, I do not find any fault with the finding recorded by the learned Arbitrators.

2. Secondly, it was submitted that in arriving at the valuation of the building, the learned Arbitrators have not given any reasons. The discussion is found in paragraph 35 of the award. Perusal of that paragraph shows that the learned Arbitrators have relied on the material produced by the respondents to find what was the cost of construction of the building The finding is essentially a finding of fact for which there is definite material available on record. Therefore, that finding cannot be disturbed. In these circumstances, in my opinion, the petition cannot entertained. It is rejected.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary of this Court as true copy.

. Certified copy expedited.